

BOARD OF ZONING APPEALS MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

January 11, 2007 - 7:30 P.M. – Council Chambers - Town Hall

CALL TO ORDER

AGENDA ADOPTION:

1. Approval of minutes of November 9, 2006
2. Public Participation
3. Appeal 07-01-1. Gail Powers, Variance to place a swimming pool 6' from the front lot line. Zoning requires a minimum 25' front yard setback.

ADJOURN:

MINUTES OF THE MEETING NOVEMBER 9, 2006
CHINCOTEAGUE BOARD OF ZONING APPEALS

Members Present:

Mr. Myron Birch
Mr. Robert Cherrix
Mr. Jack Gilliss
Mr. Arthur Leonard
Mr. Mike McGee
Mr. Donald Thornton
Kenny L. Lewis, Staff support

Members Absent:

Mr. Jesse Speidel

1. Call to Order

Mr. Leonard called the meeting to order at 7:30 p.m.

2. Approval of Minutes of Meeting Held August 10, 2006

Mr. Birch motioned, seconded by Mr. Thornton, to approve the minutes as presented. The motion was unanimously approved.

3. Appeal 06-11-01 A request from Megan McCook, 6324 White Street, for a variance from Article 3, section 3.9.2 of the Town of Chincoteague's zoning ordinance. The petitioner wishes to place a 52" x 78" addition to the front of her residence located at the above address. The new addition will be placed 14' from the front lot line. Current zoning requires a minimum of 19' front yard setback (average of adjoining properties). This property is zoned Residential District R-3.

4. Petitioner's Comments

Mrs. McCook advised the Board that she needs to new addition to place pellets for her pellet stove in the front porch. Mrs. McCook advised she is an amputee and this would assist her in not having to walk a long distance with the bags of pellets. The new addition would store 2 ton of pellets, she can back the car up to the side of the addition where she has a door. Mrs. McCook advised she built the addition without a permit, Mr. Lewis advised her of the violation and she then appealed to this Board.

5. Board Action on Appeal

Motion by Mr. Birch, second by Mr. Gillis to approve the request. All in favor.
Motion carried.

6. Adjournment

Mr. Leonard adjourned the meeting.

Arthur Leonard, Chairman

Eastern Shore Post
P.O. Box 318
Tasley, VA 23441

December 19, 2006
FAXED


Dear Sirs:

The Town of Chincoteague request the following notice of public hearing be published in the Eastern Shore Post on Wednesday December 27, 2006 and Wednesday January 3, 2007:

Public Notice

The Board of Zoning Appeals of the Town of Chincoteague will hold a public hearing on January 11, 2007 at 7:30 p.m. in the Council Chambers located at 6150 Community Drive to receive public comments and views on the following zoning matters:

Appeal 07-01-1 A request from Gail Powers, 7065 Lookout Lane, for a variance from Article 3, section 3.7.15 (1) of the Town of Chincoteague's Zoning Ordinance. The petitioner wishes to place a 21' x 41' swimming pool in front of her residence located at the above address. The swimming pool will be placed 6' from the front lot line. Current zoning requires a minimum 25' front yard setback. This property is zoned Residential District R-3.

Kenny L. Lewis 
Zoning Administrator

PK
12/18/06
CK# 384

**CHINCOTEAGUE, VIRGINIA
APPEAL TO THE
BOARD OF ZONING APPEALS**

APPEAL CASE NUMBER: 07-01-1 FEE: \$ 450.00

I, Gail Powers,

AGENT FOR SELF WOULD LIKE TO FILE THE
FOLLOWING APPEAL WITH THE BOARD OF ZONING APPEALS BASED UPON THE NOTED
STATE CODE(S):

TITLE 15.2, CODE OF VIRGINIA, 1959 (AS AMENDED)

(CHECK ALL THAT APPLY)

1. () AN APPEAL OF AN OFFICER, REQUIREMENT, DECISION OR DETERMINATION
OF AN ADMINISTRATIVE OFFICER.
2. () AN APPEAL OF A DECISION OF THE ZONING ADMINISTRATOR.
3. () AN INTERPRETATION OF THE DISTRICT ZONING MAP, IN THAT THERE IS AN
UNCERTAINTY AS TO THE LOCATION OF A DISTRICT BOUNDARY.
4. (X) AN APPEAL FOR A VARIANCE. THE APPLICANT IS REQUIRED TO SHOW THAT
A LAND USE HARDSHIP EXIST. SEE ATTACHED EXAMPLE SHEET FOR
HARDSHIP CRITERIA.
5. () AN APPEAL FOR A VARIANCE OF THE FLOOD PLAIN MANAGEMENT
ORDINANCE

BOARD OF ZONING APPEALS USE ONLY:

MEETING DATE: 1/11/06

APPEAL ACTION:

() APPROVED

() DENIED

() CONDITIONAL: _____

BZA, SECRETARY

DATE: _____

PLEASE PRINT

THE PROPERTY IN WHICH THIS APPEAL IS SUBMITTED IS LOCATED AT (911 ADDRESS)
7065 LOOKOUT LANE, TAX MAP # 30A4-40-1

THIS PROPERTY IS OWNED BY:

NAME: David & Gail Powers

ADDRESS: 7065 Lookout Lane

CITY, STATE, ZIP: Chino Valley WA 98936

PHONE: 257-336-3322 WORK PHONE: 110-629-12165

HAS ANY PREVIOUS APPLICATION OR APPEAL BEEN FILED IN CONNECTION WITH THESE PREMISES?

- ☒ NO
☐ YES, EXPLAIN; _____

IS THIS APPEAL FILED DUE TO A ZONING VIOLATION IDENTIFIED BY THE ZONING ADMINISTRATOR?

- ☒ NO
☐ YES, IF THE VIOLATION HAS NOT BEEN CORRECTED, EXPLAIN WHY; _____

ARTICLE(S) AND SECTION(S) THAT APPLIES TO YOUR APPEAL:

- (1.) ARTICLE: _____ SECTION: _____
REQUIRES: _____
REASON FOR YOUR APPEAL: _____

- (2.) ARTICLE: 3 SECTION: 3.7.15 (1)
REQUIRES: NO ACCESSORY STRUCTURE CLOSER THAN 25' FROM FRONT LOT LINE
REASON FOR YOUR APPEAL: PLACE A SWIMMING POOL 6' FROM FRONT LOT LINE
- (3.) ARTICLE: _____ SECTION: _____
REQUIRES: _____
REASON FOR YOUR APPEAL: _____

GUIDELINES USED BY THE BOARD OF ZONING APPEALS IN GRANTING A VARIANCE

In order for the Board of Zoning Appeals to review your request for a variance, the threshold question for the BZA in considering an application for a variance "is whether the effect of the zoning ordinance upon the property under consideration, as it stands, interferes with all reasonable beneficial uses of the property, taken as a whole". If the answer is in the negative, the BZA has no authority to go further.

☒ yes
☐ no

Please answer the following questions:

(1). Does the strict application of the ordinance result in unnecessary or unreasonable hardship to the property owner?

☒ yes, Explain;

see letter attached

☐ no

(2). Is the need for the variance shared generally by other properties?

☐ yes, Explain;

☒ no

(3). Is the variance contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done.

☐ yes, Explain;

see letter attached

☒ no

All of the above questions must be answered. Failure to complete the above questions shall result in your application not being processed.

Question # 1

Does the strict application of the ordinance result in unnecessary or unreasonable hardship to the property owner?

(x) yes. Explained:

Our septic and drain field system covers the entire backyard thus leaving the front yard the only location for the swimming pool. Also with having a cemetery running the entire length of our backyard it would be very disrespectful to grieving families to have to listen to children yelling, splashing and having fun during their time of sorrow.

If you were to grant us the new variance of 6 feet for our front yard we could place our pool in the front yard.

Our home sets back 700 feet from the main road (Eastside Drive). Our yard is completely fenced in. Our front yard has a deck that is attached to the house so it would be safer for us to watch the children while swimming. Two sides of our home are facing woods and as I have stated earlier, the entire back adjoins a cemetery. The front adjoining property which is our neighbor's backyard has a garage facing us.

Question # 3

Is the variance contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done.

(x) No, but with an explanation.

A swimming pool is a family joined activity and will physically help our three children to maintain a healthy, fun and clean life. It will also greatly help the unity of our family. Having the pool in the front yard is more private not only to us but to the grieving relatives during funeral or visitations to their loved ones.

Our house was purposely designed for us to be able to lookout and see the beauty of the lighthouse and surrounding nature.

Thus, our lane named by us, "Lookout Lane", is our private 700 foot long lane to use to get to Eastside Drive.

PLEASE INDICATE YOUR APPROVAL OR DISAPPROVAL OF THE PROPOSED LAND USE AS
STATED IN THE APPLICATION BY CHECKING THE APPROPRIATE SPACE. SPECIFY THE
LOCATION OF YOUR PROPERTY; NORTH, EAST, SOUTH OR WEST OF THE APPLICANTS
PROPERTY.

TAX MAP #	<u>30A4-40-2</u>	<u>30A6-A37 part</u>	LOCATION OF PROPERTY	<u>EAST & WEST</u>
NAME:	<u>John Gray</u>			
ADDRESS:	<u>12521 Triple Crown Rd North Potomac Md 20878</u>		PHONE:	
COMMENTS:	<u>This is perfectly okay with me</u>			
<input checked="" type="checkbox"/> APPROVE REQUEST		<input type="checkbox"/> DISAPPROVE REQUEST		
SIGNATURE:	<u>John R Gray</u>		DATE:	<u>12/5/2006</u>

TAX MAP #	<u>30A6-A-36A</u>	LOCATION OF PROPERTY	<u>WEST</u>	
NAME:	<u>ERNEST D. HOLSTON</u>			
ADDRESS:	<u>7234 Olpa Dr Chincoteague</u>		PHONE:	
COMMENTS:	<u>I AM OK with this</u>			
<input checked="" type="checkbox"/> APPROVE REQUEST		<input type="checkbox"/> DISAPPROVE REQUEST		
SIGNATURE:	<u>Ernest D. Holston</u>		DATE:	<u>12/10/06</u>

TAX MAP #	<u>30A4-A-143</u>	<u>§141</u>	LOCATION OF PROPERTY	<u>South</u>
NAME:	<u>Billie Ann & Jack Bowden</u>			
ADDRESS:	<u>7855 Eastside Rd Chincoteague</u>		PHONE:	
COMMENTS:				
<input checked="" type="checkbox"/> APPROVE REQUEST		<input type="checkbox"/> DISAPPROVE REQUEST		
SIGNATURE:	<u>Billie Ann & Jack Bowden</u>		DATE:	<u>12-10-2006</u>



TOWN OF CHINCOTEAGUE PRIVATE OUTDOOR SWIMMING POOL PERMIT APPLICATION

PERMIT NUMBER _____ PERMIT FEE \$ _____

PROPERTY OWNER/TENANT: David Gail Powers PHONE # 736-3322
ADDRESS: 7065 Lookout Lane Chincoteague VA 23336 844-5321

CONTRACTOR: Dave's Pools PHONE # 410 749-8744
ADDRESS: 1907 N Salisbury Blvd Salisbury MD 21801

LOCATION OF WORK: Front yard 7065 Lookout Lane

COST OF CONSTRUCTION: \$ 10,000.00 SIZE OF POOL: 21x41 oval

SPECIFICATIONS:

1.) ABOVE GROUND ☒ GAL. CAPACITY 22050
BELOW GROUND _____ GAL. CAPACITY _____
(X) GALV. STEEL () ALUMINUM () FIBERGLASS () CONCRETE

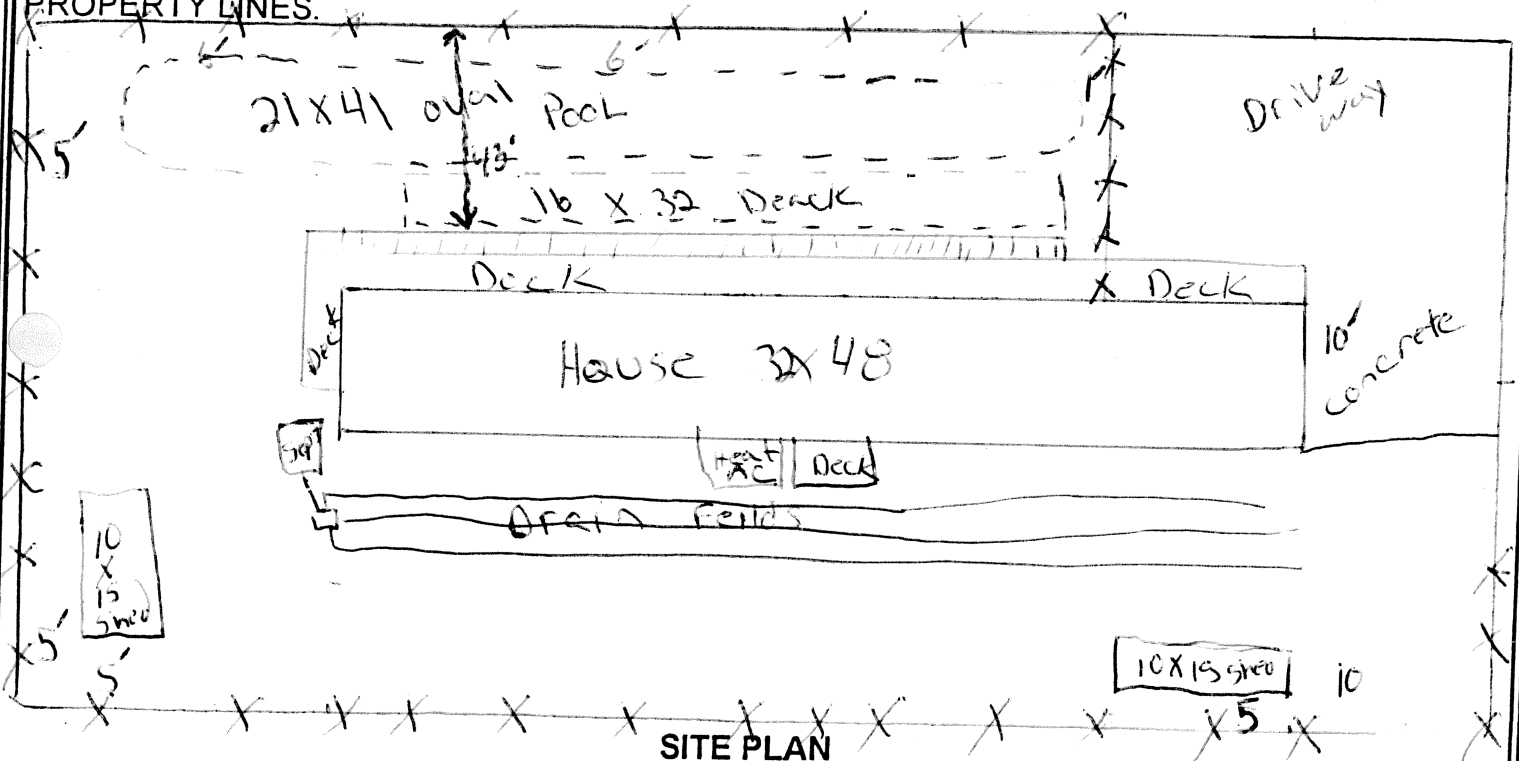
REQUIREMENTS:

- AT LEAST ON MEANS OF EGRESS SHALL BE PROVIDED FROM A PRIVATE SWIMMING POOL.
- ALL SWIMMING POOLS SHALL BE PROVIDED WITH A RECIRCULATING SKIMMING DEVICE OR OVERFLOW GUTTERS TO REMOVE DEBRIS AND FOREIGN MATTER. AT LEAST ONE SKIMMER FOR EACH 1,000 SQUARE FEET OF SURFACE.
- ALL SWIMMING POOLS SHALL BE PROVIDED WITH A POTABLE WATER SUPPLY, FREE OF CROSS CONNECTION WITH THE POOL EQUIPMENT.
- A PROTECTION BARRIER SHALL BE PROVIDED. THE TOP OF THE BARRIER SHALL BE AT LEAST 48 INCHES ABOVE THE FINISHED GRADE LEVEL ON THE SIDE OF THE BARRIER. WHERE THE BARRIER IS MOUNTED ON THE POOL STRUCTURE, THE OPENING BETWEEN THE TOP OF THE SURFACE OF THE POOL FRAME AND THE BOTTOM OF THE BARRIER SHALL NOT ALLOW PASSAGE OF A 4-INCH DIAMETER SPHERE.
- OPENINGS IN THE BARRIER SHALL NOT ALLOW PASSAGE OF A 4-INCH DIAMETER SPHERE.
- SOLID BARRIERS SHALL NOT CONTAIN INDENTATIONS OR PROTRUSIONS EXCEPT FOR NORMAL CONSTRUCTION TOLERANCES AND TOOLED MASONRY JOINTS.



- (7) WHERE THE BARRIER IS COMPOSED OF HORIZONTAL & VERTICAL MEMBERS AND THE DISTANCE BETWEEN THE TOPS OF THE HORIZONTAL MEMBERS IS LESS THAN 45 INCHES THE HORIZONTAL MEMBERS SHALL BE LOCATED ON THE SWIMMING POOL SIDE OF THE FENCE. SPACING BETWEEN VERTICAL MEMBERS SHALL NOT EXCEED 1-3/4" IN WIDTH.
- (8) MAXIMUM MESH FOR CHAIN LINK FENCES SHALL BE 1-1/4" UNLESS FENCE HAS SLATS, FASTENED TO THE TOP AND BOTTOM AND THE OPENING IS LESS THAN 1-3/4".
- (9) LATTICE IS PERMITTED WITH OPENINGS LESS THAN 1-3/4".
- (10) ACCESS GATES SHALL OPEN OUTWARD AWAY FROM THE POOL AND BE SELF CLOSING AND HAVE A SELF-LATCHING DEVICE. WHEN THE LATCHING DEVICE IS LOCATED LESS THAN 54 INCHES FROM THE BOTTOM OF THE GATE; THE RELEASE MECHANISM SHALL BE LOCATED ON THE POOL SIDE OF THE GATE AT LEAST 3 INCHES BELOW THE TOP OF THE GATE; THE GATE & BARRIER SHALL NOT HAVE AN OPENING GREATER THAN 1/2 INCH WITHIN 18 INCHES OF THE RELEASE MECHANISM.
- (11) WHERE THE WALL OF A DWELLING SERVES AS PART OF THE BARRIER AND CONTAINS A DOOR THAT PROVIDES DIRECT ACCESS TO THE POOL, ONE OF THE FOLLOWING SHALL APPLY; ALL DOORS WITH DIRECT ACCESS TO THE POOL THROUGH THAT WALL SHALL BE EQUIPPED WITH AN ALARM WHICH PRODUCES AN AUDIBLE WARNING. THE AUDIBLE WARNING SHALL COMMENCE NOT MORE THAN 7 SECONDS AFTER THE DOOR AND DOOR SCREEN ARE OPENED AND SHALL SOUND CONTINUOUSLY FOR A MINIMUM OF 30 SECONDS. THE ALARM SHALL HAVE A MINIMUM SOUND RATING OF 85 DBA AT 10 FEET OR THE POOL SHALL BE EQUIPPED WITH A POWER SAFETY COVER. (SEE CODE)
- (12) WHERE AN ABOVE GROUND POOL STRUCTURE IS USED AS A BARRIER OR WHERE THE BARRIER IS MOUNTED ON TOP OF THE POOL STRUCTURE, AND THE MEANS OF ACCESS IS FIXED OR REMOVABLE LADDER OR STEPS, THE LADDER OR STEPS SHALL BE SURROUNDED BY A BARRIER WHICH MEETS THE REQUIREMENTS OF ITEMS 1 THROUGH 12. A REMOVABLE LADDER SHALL NOT CONSTITUTE AN ACCEPTABLE ALTERNATIVE TO ENCLOSURE REQUIREMENTS.

SHOW LOCATION OF EXISTING STRUCTURES WITH SOLID LINES AND IDENTIFY NEW POOL WITH DOTTED LINES ALONG WITH SETBACKS FROM THE FRONT, SIDES AND REAR PROPERTY LINES.



APPLICANT (PRINT): David Ivan Powers Jr

APPLICANT (SIGNATURE): David J Powers Jr

BUILDING DEPARTMENT:

APPROVED/DENIED: BUILDING OFFICIAL

DATE: _____

December 5, 2006
Mrs. Gail Powers
7065 Lookout Lane
Chincoteague, VA. 23336
757-336-3322

The Township Of Chincoteague
6150 Community Drive
Chincoteague, VA. 23336

Attention: Mr. Kenneth Lewis

Property in question for a variance:

7065 Lookout Lane
Chincoteague, VA. 23336


Dear Mr. Lewis,

I, Gail Powers, wish to place a swimming pool in my front yard. The current set-back is twenty-five feet, (25 feet) from the front property line. I would like to file for a variance to place it at six feet, (6 feet) from the front property line at 7065 Lookout Lane.

My family would like to have an above ground swimming pool installed in the front yard due to our septic tank and drains fields are in the back yard. When our home was built we put a deck on the front and side of our home to be able to see the lighthouse and marshes past the end of our driveway. It would be wonderful to have a pool out front for our three children so we would be able to watch them from the deck. Our home is located approximately seven hundred feet (700 feet) from East Side Drive. Our yard is completely fenced in. The two sides of our home are facing woods and the entire back of the house adjoins a graveyard. The adjoining property to the front of our home is a garage.

With reviewing our entire property it shows to us that the only possible location for a swimming pool is in the front yard.

Thank you for your time and help in this matter.
Respectfully,



Mrs. Gail Powers



TOWN OF CHINCOTEAGUE, INC.

November 27, 2006

David & Gail Powers
7065 Lookout Lane
Chincoteague VA 23336

RE: Proposed Swimming Pool

Dear Mr. & Mrs. Powers:

I reviewed your application to place a swimming pool on your property located at the above address.

On the site plan submitted with the application you identified the placement of the swimming pool 6 feet from your front lot line.

Current zoning requires the placement of such accessory structure to be no closer than 25 feet from said lot line.

Therefore your application has been denied.

You have the right to appeal this decision or apply for a variance with the Board of Zoning Appeals if you so desire. Such appeal must be submitted within 30 days of receipt of this notice. Failure to appeal within 30 days voids such right. The 30 days shall begin 2 days after the postmark date of this letter.

If you have any questions regarding this matter please give me a call.

Sincerely,

Kenny L. Lewis
Zoning Administrator